

“(3) subject to any agreement in existence as of the date of enactment of this paragraph, and to the extent consistent with the purposes of the Refuge, use decreed water rights on the Refuge in approximately the same manner that the water rights have been used historically.”.

Subtitle D—Paleontological Resources Preservation

9 SEC. 6301. DEFINITIONS.

10 In this subtitle:

11 (1) CASUAL COLLECTING.—The term “casual
12 collecting” means the collecting of a reasonable
13 amount of common invertebrate and plant paleon-
14 tological resources for non-commercial personal use,
15 either by surface collection or the use of non-pow-
16 ered hand tools resulting in only negligible disturb-
17 ance to the Earth’s surface and other resources. As
18 used in this paragraph, the terms “reasonable
19 amount”, “common invertebrate and plant paleon-
20 tological resources” and “negligible disturbance”
21 shall be determined by the Secretary.

22 (2) FEDERAL LAND.—The term “Federal land”
23 means—

24 (A) land controlled or administered by the
25 Secretary of the Interior, except Indian land; or

1 (B) National Forest System land con-
2 trolled or administered by the Secretary of Ag-
3 riculture.

4 (3) INDIAN LAND.—The term “Indian Land”
5 means land of Indian tribes, or Indian individuals,
6 which are either held in trust by the United States
7 or subject to a restriction against alienation imposed
8 by the United States.

9 (4) PALEONTOLOGICAL RESOURCE.—The term
10 “paleontological resource” means any fossilized re-
11 mains, traces, or imprints of organisms, preserved in
12 or on the earth’s crust, that are of paleontological
13 interest and that provide information about the his-
14 tory of life on earth, except that the term does not
15 include—

16 (A) any materials associated with an ar-
17 chaeological resource (as defined in section 3(1)
18 of the Archaeological Resources Protection Act
19 of 1979 (16 U.S.C. 470bb(1)); or

20 (B) any cultural item (as defined in section
21 2 of the Native American Graves Protection
22 and Repatriation Act (25 U.S.C. 3001)).

23 (5) SECRETARY.—The term “Secretary” means
24 the Secretary of the Interior with respect to land
25 controlled or administered by the Secretary of the

1 Interior or the Secretary of Agriculture with respect
2 to National Forest System land controlled or admin-
3 istered by the Secretary of Agriculture.

4 (6) STATE.—The term “State” means the 50
5 States, the District of Columbia, the Commonwealth
6 of Puerto Rico, and any other territory or possession
7 of the United States.

8 **SEC. 6302. MANAGEMENT.**

9 (a) IN GENERAL.—The Secretary shall manage and
10 protect paleontological resources on Federal land using
11 scientific principles and expertise. The Secretary shall de-
12 velop appropriate plans for inventory, monitoring, and the
13 scientific and educational use of paleontological resources,
14 in accordance with applicable agency laws, regulations,
15 and policies. These plans shall emphasize interagency co-
16 ordination and collaborative efforts where possible with
17 non-Federal partners, the scientific community, and the
18 general public.

19 (b) COORDINATION.—To the extent possible, the Sec-
20 retary of the Interior and the Secretary of Agriculture
21 shall coordinate in the implementation of this subtitle.

1 **SEC. 6303. PUBLIC AWARENESS AND EDUCATION PRO-**
2 **GRAM.**

3 The Secretary shall establish a program to increase
4 public awareness about the significance of paleontological
5 resources.

6 **SEC. 6304. COLLECTION OF PALEONTOLOGICAL RE-**
7 **SOURCES.**

8 (a) PERMIT REQUIREMENT.—

9 (1) IN GENERAL.—Except as provided in this
10 subtitle, a paleontological resource may not be col-
11 lected from Federal land without a permit issued
12 under this subtitle by the Secretary.

13 (2) CASUAL COLLECTING EXCEPTION.—The
14 Secretary may allow casual collecting without a per-
15 mit on Federal land controlled or administered by
16 the Bureau of Land Management, the Bureau of
17 Reclamation, and the Forest Service, where such col-
18 lection is consistent with the laws governing the
19 management of those Federal land and this subtitle.

20 (3) PREVIOUS PERMIT EXCEPTION.—Nothing in
21 this section shall affect a valid permit issued prior
22 to the date of enactment of this Act.

23 (b) CRITERIA FOR ISSUANCE OF A PERMIT.—The
24 Secretary may issue a permit for the collection of a paleon-
25 tological resource pursuant to an application if the Sec-
26 retary determines that—

1 (1) the applicant is qualified to carry out the
2 permitted activity;

3 (2) the permitted activity is undertaken for the
4 purpose of furthering paleontological knowledge or
5 for public education;

6 (3) the permitted activity is consistent with any
7 management plan applicable to the Federal land
8 concerned; and

9 (4) the proposed methods of collecting will not
10 threaten significant natural or cultural resources.

11 (c) PERMIT SPECIFICATIONS.—A permit for the col-
12 lection of a paleontological resource issued under this sec-
13 tion shall contain such terms and conditions as the Sec-
14 retary deems necessary to carry out the purposes of this
15 subtitle. Every permit shall include requirements that—

16 (1) the paleontological resource that is collected
17 from Federal land under the permit will remain the
18 property of the United States;

19 (2) the paleontological resource and copies of
20 associated records will be preserved for the public in
21 an approved repository, to be made available for sci-
22 entific research and public education; and

23 (3) specific locality data will not be released by
24 the permittee or repository without the written per-
25 mission of the Secretary.

1 (d) MODIFICATION, SUSPENSION, AND REVOCATION
2 OF PERMITS.—

3 (1) The Secretary may modify, suspend, or re-
4 voke a permit issued under this section—

5 (A) for resource, safety, or other manage-
6 ment considerations; or

7 (B) when there is a violation of term or
8 condition of a permit issued pursuant to this
9 section.

10 (2) The permit shall be revoked if any person
11 working under the authority of the permit is con-
12 victed under section 6306 or is assessed a civil pen-
13 alty under section 6307.

14 (e) AREA CLOSURES.—In order to protect paleon-
15 tological or other resources or to provide for public safety,
16 the Secretary may restrict access to or close areas under
17 the Secretary's jurisdiction to the collection of paleontolog-
18 ical resources.

19 **SEC. 6305. CURATION OF RESOURCES.**

20 Any paleontological resource, and any data and
21 records associated with the resource, collected under a per-
22 mit, shall be deposited in an approved repository. The Sec-
23 retary may enter into agreements with non-Federal reposi-
24 tories regarding the curation of these resources, data, and
25 records.

1 **SEC. 6306. PROHIBITED ACTS; CRIMINAL PENALTIES.**

2 (a) IN GENERAL.—A person may not—

3 (1) excavate, remove, damage, or otherwise
4 alter or deface or attempt to excavate, remove, dam-
5 age, or otherwise alter or deface any paleontological
6 resources located on Federal land unless such activ-
7 ity is conducted in accordance with this subtitle;

8 (2) exchange, transport, export, receive, or offer
9 to exchange, transport, export, or receive any pale-
10 ontological resource if the person knew or should
11 have known such resource to have been excavated or
12 removed from Federal land in violation of any provi-
13 sions, rule, regulation, law, ordinance, or permit in
14 effect under Federal law, including this subtitle; or

15 (3) sell or purchase or offer to sell or purchase
16 any paleontological resource if the person knew or
17 should have known such resource to have been exca-
18 vated, removed, sold, purchased, exchanged, trans-
19 ported, or received from Federal land.

20 (b) FALSE LABELING OFFENSES.—A person may not
21 make or submit any false record, account, or label for,
22 or any false identification of, any paleontological resource
23 excavated or removed from Federal land.

24 (c) PENALTIES.—A person who knowingly violates or
25 counsels, procures, solicits, or employs another person to
26 violate subsection (a) or (b) shall, upon conviction, be

1 fined in accordance with title 18, United States Code, or
2 imprisoned not more than 2 years, or both; but if the sum
3 of the commercial and paleontological value of the paleon-
4 tological resources involved and the cost of restoration and
5 repair of such resources does not exceed \$500, such person
6 shall be fined in accordance with title 18, United States
7 Code, or imprisoned not more than 5 years, or both.

8 (d) MULTIPLE OFFENSES.—In the case of a second
9 or subsequent violation by the same person, the amount
10 of the penalty assessed under subsection (c) may be dou-
11 bled.

12 (e) GENERAL EXCEPTION.—Nothing in subsection
13 (a) shall apply to any person with respect to any paleon-
14 tological resource which was in the lawful possession of
15 such person prior to the date of enactment of this Act.

16 **SEC. 6307. CIVIL PENALTIES.**

17 (a) IN GENERAL.—

18 (1) HEARING.—A person who violates any pro-
19 hibition contained in an applicable regulation or per-
20 mit issued under this subtitle may be assessed a
21 penalty by the Secretary after the person is given
22 notice and opportunity for a hearing with respect to
23 the violation. Each violation shall be considered a
24 separate offense for purposes of this section.

1 (2) AMOUNT OF PENALTY.—The amount of
2 such penalty assessed under paragraph (1) shall be
3 determined under regulations promulgated pursuant
4 to this subtitle, taking into account the following
5 factors:

6 (A) The scientific or fair market value,
7 whichever is greater, of the paleontological re-
8 source involved, as determined by the Secretary.

9 (B) The cost of response, restoration, and
10 repair of the resource and the paleontological
11 site involved.

12 (C) Any other factors considered relevant
13 by the Secretary assessing the penalty.

14 (3) MULTIPLE OFFENSES.—In the case of a
15 second or subsequent violation by the same person,
16 the amount of a penalty assessed under paragraph
17 (2) may be doubled.

18 (4) LIMITATION.—The amount of any penalty
19 assessed under this subsection for any 1 violation
20 shall not exceed an amount equal to double the cost
21 of response, restoration, and repair of resources and
22 paleontological site damage plus double the scientific
23 or fair market value of resources destroyed or not
24 recovered.

1 (b) PETITION FOR JUDICIAL REVIEW; COLLECTION
2 OF UNPAID ASSESSMENTS.—

3 (1) JUDICIAL REVIEW.—Any person against
4 whom an order is issued assessing a penalty under
5 subsection (a) may file a petition for judicial review
6 of the order in the United States District Court for
7 the District of Columbia or in the district in which
8 the violation is alleged to have occurred within the
9 30-day period beginning on the date the order mak-
10 ing the assessment was issued. Upon notice of such
11 filing, the Secretary shall promptly file such a cer-
12 tified copy of the record on which the order was
13 issued. The court shall hear the action on the record
14 made before the Secretary and shall sustain the ac-
15 tion if it is supported by substantial evidence on the
16 record considered as a whole.

17 (2) FAILURE TO PAY.—If any person fails to
18 pay a penalty under this section within 30 days—

19 (A) after the order making assessment has
20 become final and the person has not filed a pe-
21 tition for judicial review of the order in accord-
22 ance with paragraph (1); or

23 (B) after a court in an action brought in
24 paragraph (1) has entered a final judgment up-
25 holding the assessment of the penalty, the Sec-

1 retary may request the Attorney General to in-
2 stitute a civil action in a district court of the
3 United States for any district in which the per-
4 son if found, resides, or transacts business, to
5 collect the penalty (plus interest at currently
6 prevailing rates from the date of the final order
7 or the date of the final judgment, as the case
8 may be). The district court shall have jurisdic-
9 tion to hear and decide any such action. In
10 such action, the validity, amount, and appro-
11 priateness of such penalty shall not be subject
12 to review. Any person who fails to pay on a
13 timely basis the amount of an assessment of a
14 civil penalty as described in the first sentence of
15 this paragraph shall be required to pay, in addi-
16 tion to such amount and interest, attorneys fees
17 and costs for collection proceedings.

18 (c) HEARINGS.—Hearings held during proceedings
19 instituted under subsection (a) shall be conducted in ac-
20 cordance with section 554 of title 5, United States Code.

21 (d) USE OF RECOVERED AMOUNTS.—Penalties col-
22 lected under this section shall be available to the Secretary
23 and without further appropriation may be used only as
24 follows:

1 (1) To protect, restore, or repair the paleon-
2 tological resources and sites which were the subject
3 of the action, or to acquire sites with equivalent re-
4 sources, and to protect, monitor, and study the re-
5 sources and sites. Any acquisition shall be subject to
6 any limitations contained in the organic legislation
7 for such Federal land.

8 (2) To provide educational materials to the
9 public about paleontological resources and sites.

10 (3) To provide for the payment of rewards as
11 provided in section 6308.

12 **SEC. 6308. REWARDS AND FORFEITURE.**

13 (a) REWARDS.—The Secretary may pay from pen-
14 alties collected under section 6306 or 6307 or from appro-
15 priated funds—

16 (1) consistent with amounts established in regu-
17 lations by the Secretary; or

18 (2) if no such regulation exists, an amount up
19 to ½ of the penalties, to any person who furnishes
20 information which leads to the finding of a civil vio-
21 lation, or the conviction of criminal violation, with
22 respect to which the penalty was paid. If several per-
23 sons provided the information, the amount shall be
24 divided among the persons. No officer or employee
25 of the United States or of any State or local govern-

1 ment who furnishes information or renders service in
2 the performance of his official duties shall be eligible
3 for payment under this subsection.

4 (b) FORFEITURE.—All paleontological resources with
5 respect to which a violation under section 6306 or 6307
6 occurred and which are in the possession of any person,
7 and all vehicles and equipment of any person that were
8 used in connection with the violation, shall be subject to
9 civil forfeiture, or upon conviction, to criminal forfeiture.
10 All provisions of law relating to the seizure, forfeiture, and
11 condemnation of property for a violation of this subtitle,
12 the disposition of such property or the proceeds from the
13 sale thereof, and remission or mitigation of such for-
14 feiture, as well as the procedural provisions of chapter 46
15 of title 18, United States Code, shall apply to the seizures
16 and forfeitures incurred or alleged to have incurred under
17 the provisions of this subtitle.

18 (c) TRANSFER OF SEIZED RESOURCES.—The Sec-
19 retary may transfer administration of seized paleontolog-
20 ical resources to Federal or non-Federal educational insti-
21 tutions to be used for scientific or educational purposes.

22 **SEC. 6309. CONFIDENTIALITY.**

23 Information concerning the nature and specific loca-
24 tion of a paleontological resource shall be exempt from dis-
25 closure under section 552 of title 5, United States Code,

1 and any other law unless the Secretary determines that
2 disclosure would—

3 (1) further the purposes of this subtitle;

4 (2) not create risk of harm to or theft or de-
5 struction of the resource or the site containing the
6 resource; and

7 (3) be in accordance with other applicable laws.

8 **SEC. 6310. REGULATIONS.**

9 As soon as practical after the date of enactment of
10 this Act, the Secretary shall issue such regulations as are
11 appropriate to carry out this subtitle, providing opportuni-
12 ties for public notice and comment.

13 **SEC. 6311. SAVINGS PROVISIONS.**

14 Nothing in this subtitle shall be construed to—

15 (1) invalidate, modify, or impose any additional
16 restrictions or permitting requirements on any ac-
17 tivities permitted at any time under the general min-
18 ing laws, the mineral or geothermal leasing laws,
19 laws providing for minerals materials disposal, or
20 laws providing for the management or regulation of
21 the activities authorized by the aforementioned laws
22 including but not limited to the Federal Land Policy
23 Management Act (43 U.S.C. 1701–1784), Public
24 Law 94–429 (commonly known as the “Mining in
25 the Parks Act”) (16 U.S.C. 1901 et seq.), the Sur-

1 face Mining Control and Reclamation Act of 1977
2 (30 U.S.C. 1201–1358), and the Organic Adminis-
3 tration Act (16 U.S.C. 478, 482, 551);

4 (2) invalidate, modify, or impose any additional
5 restrictions or permitting requirements on any ac-
6 tivities permitted at any time under existing laws
7 and authorities relating to reclamation and multiple
8 uses of Federal land;

9 (3) apply to, or require a permit for, casual col-
10 lecting of a rock, mineral, or invertebrate or plant
11 fossil that is not protected under this subtitle;

12 (4) affect any land other than Federal land or
13 affect the lawful recovery, collection, or sale of pale-
14 ontological resources from land other than Federal
15 land;

16 (5) alter or diminish the authority of a Federal
17 agency under any other law to provide protection for
18 paleontological resources on Federal land in addition
19 to the protection provided under this subtitle; or

20 (6) create any right, privilege, benefit, or enti-
21 tlement for any person who is not an officer or em-
22 ployee of the United States acting in that capacity.
23 No person who is not an officer or employee of the
24 United States acting in that capacity shall have
25 standing to file any civil action in a court of the

1 United States to enforce any provision or amend-
2 ment made by this subtitle.

3 **SEC. 6312. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated such sums
5 as may be necessary to carry out this subtitle.

6 **Subtitle E—Izembek National**
7 **Wildlife Refuge Land Exchange**

8 **SEC. 6401. DEFINITIONS.**

9 In this subtitle:

10 (1) CORPORATION.—The term “Corporation”
11 means the King Cove Corporation.

12 (2) FEDERAL LAND.—The term “Federal land”
13 means—

14 (A) the approximately 206 acres of Federal
15 land located within the Refuge, as generally de-
16 picted on the map; and

17 (B) the approximately 1,600 acres of Fed-
18 eral land located on Sitkinak Island, as gen-
19 erally depicted on the map.

20 (3) MAP.—The term “map” means each of—

21 (A) the map entitled “Izembek and Alaska
22 Peninsula National Wildlife Refuges” and dated
23 September 2, 2008; and